

CHAPTER 4

ANIMALS

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CHAPTER 4**ANIMALS****Article 1. Definitions.****Section 4-1-1. Definitions.**

As used in this chapter:

“Animal control officer” means any employee of the County animal control and protection agency, who is authorized to carry out and enforce the provisions of this chapter.

“Animals,” unless provided otherwise, include but are not limited to those animals that are customary and usual pets such as dogs, cats, rabbits, birds, and other beasts which are maintained on the premises of a dwelling unit and kept by the resident of a dwelling unit solely for personal enjoyment and companionship, such as, without limitation, for a hobby, for legal sporting activities and for guarding of property. Animals shall also include honey bees and exclude aviary game birds and fish as defined in Hawai‘i Revised Statutes.

“At large” means on the premises of a person other than the owner of the dog or other small domesticated animal without the consent of the occupant of the premises, or on a public street, alley, highway, or in any public place except when under the control of a responsible person or an authorized representative of the owner.

“Attack” means aggressive physical contact with a person or animal initiated by the dog which may include, but is not limited to, the dog jumping on, leaping at, or biting a person or animal.

“Bodily injury” means physical pain, illness, or any impairment of physical condition.

“Dangerous dog” means any dog which, without provocation, attacks a person or animal. A dog’s breed shall not be considered in determining whether or not it is dangerous.

“Farm animals” means pigs, cows, goats, sheep, horses, camels, and llamas.

“Humane society” means any eleemosynary organization formed for the purpose of providing humane care and treatment of dogs, cats, and other animals.

“Livestock” means all animals generally associated with farming, which are raised or kept for food and other agricultural purposes. Such animals include: swine; cattle; horses; goats; sheep; chickens, ducks, geese, turkey, and other poultry; rabbits; and bees.

“Negligently” shall have the same meaning as is ascribed to the term in section 702-206, Hawai‘i Revised Statutes.

“Owner” means any person owning, harboring or keeping a dog, provided that if the owner is a minor under the age of 18 years, the parent, guardian or other person having the care, custody or control of the minor shall be rebuttably presumed to be the owner. The person to whom the license was issued pursuant to section 143-2, Hawai‘i Revised Statutes, shall be rebuttably presumed to be the owner of the dog for purposes of this section.

“Person” means and includes corporations, estates, associations, partnerships and trusts, as well as one or more individual human beings.

“Police officer” means a sworn officer of the police department, charged with the enforcement of County and State laws.

“Poultry” means fowl that are not regulated by state law, including chickens, pigeons, turkeys, geese, ducks, and peacocks.

“Provocation” means that the attack by a dog upon a person or animal was precipitated under circumstances reasonably expected to evoke a vicious response from the dog, including, but not limited to, the following:

- (1) The dog was protecting or defending its owner or a member of its owner’s household from an attack or assault;
- (2) The person attacked was committing a crime while on the property of the owner of the dog;
- (3) The person attacked was tormenting, abusing, or assaulting the dog;
- (4) The dog was attacked by the animal;
- (5) The dog was responding to pain or injury inflicted by the attacked person or animal; or
- (6) The dog was protecting itself, its kennels or its offspring from the attacked person or animal and the attack was committed on its owner’s property.

“Serious bodily injury” means bodily injury which creates a substantial risk of death or which causes serious, permanent disfigurement, or protracted loss or impairment of the function of any bodily member or organ.

“Serious injury” to a domestic animal means physical injury to the animal involving a broken bone, a laceration requiring stitches, a concussion, or a tearing or rupture of an organ.

“Sterilized dog” means a spayed female dog and a neutered male dog.

“Stray” means:

- (1) An unlicensed dog or dog without a license for the current year;
- (2) Any dog on the premises of a person other than the owner of the dog, without the consent of an occupant of such premises;
- (3) Any dog on a public street, on public or private school grounds, or in any other public place, except when under the control of the owner by leash, cord, chain or other similar means of physical restraint, provided that such leash, cord, chain, or other means is not more than eight feet in length, and provided further that this provision shall not be construed to permit that which is prohibited by any other law; or
- (4) A cat or small domesticated animal wandering or running at large, or found upon any public place or found not upon the lands of the owner or not under the charge or control of one in possession.

“Substantial bodily injury” means bodily injury which causes:

- (1) A major avulsion, laceration, or penetration of the skin;
- (2) A burn of at least second degree severity;
- (3) A bone fracture;
- (4) A serious concussion; or
- (5) A tearing, rupture, or corrosive damage to the esophagus, viscera, or other internal organs.

“Vicious dog” means a dog which:

- (1) Places a person or other animal in imminent danger of bodily injury; or
- (2) Has bitten any person or animal.

A dog shall not be deemed vicious where the vicious behavior in question is the result of the dog being tormented, assaulted, or otherwise abused by the victim of the vicious behavior.

(1983 CC, c 4, art 1, sec 4-1; am 1988, ord 88-48, sec 2; am 1992, ord 92-93, sec 1; am 2002, ord 02-138, sec 2; am 2022, ord 22-36, secs 2-4; am 2024, ord 24-26, secs 1-3; ord 24-65, sec 2.)

Article 2. Dog, Cat, and Animal Pounds.

Section 4-2-1. Pound established for dogs, cats, and domesticated animals.

The animal control and protection agency may establish pounds for the purpose of impounding, caring for, sheltering, and disposing of unlicensed, lost, stray, homeless, or diseased dogs, cats, or any seized animals not redeemed in the County of Hawai‘i.

(1983 CC, c 4, art 2, sec 4-2; am 2023, ord 23-33, sec 4.)

Section 4-2-2. Direction, control, and administration of pound.

Each pound shall be under the direction, control and administration of the animal control and protection agency which shall, in addition to the duties provided in section 4-2-1, feed and shelter the dogs, cats, and domesticated animals in their care pursuant to chapter 143, Hawai‘i Revised Statutes.

(1983 CC, c 4, art 2, sec 4-3; am 1992, ord 92-93, sec 2; am 2023, ord 23-33, sec 4.)

Section 4-2-3. Power to seize and impound dogs, cats, and domesticated animals.

The County animal control and protection agency shall be authorized to seize and impound any dog, cat, or other domesticated animal, when such dog, cat, or other domesticated animal is a stray, and to dispose of such dog, cat, or domesticated animal in accordance with chapter 143, Hawai‘i Revised Statutes, as amended.

(1983 CC, c 4, art 2, sec 4-4; am 1992, ord 92-93, sec 2; am 2023, ord 23-33, sec 4.)

Section 4-2-4. Enforcement by animal control officer.

The animal control and protection agency may designate persons who possess qualifications and training satisfactory to the County to serve as animal control officers to carry out the provisions of this article, chapter 143, Hawai'i Revised Statutes, and other provisions of this chapter which expressly authorize such animal control officers to take specific action by ordinance.

(1983 CC, c 4, art 2, sec 4-5; am 1992, ord 92-93, sec 2; am 2023, ord 23-33, sec 4; am 2024, ord 24-26, sec 4.)

Section 4-2-5. Expenses and appropriations for the pound.

All expenses of seizing, impounding, and disposing of stray animals, including dogs, cats, or domesticated animals, shall be borne by the County.

(1983 CC, c 4, art 2, sec 4-6; am 1992, ord 92-93, sec 2; am 2023, ord 23-33, sec 4.)

Section 4-2-6. Repealed.

(1983 CC, c 4, art 2, sec 4-7; am 1992, ord 92-93, sec 2; rep 2023, ord 23-33, sec 4.)

Section 4-2-7. Repealed.

(1983 CC, c 4, art 2, sec 4-8; am 1992, ord 92-93, sec 2; rep 2023, ord 23-33, sec 4.)

Section 4-2-8. Repealed.

(1983 CC, c 4, art 2, sec 4-9; am 1992, ord 92-93, sec 2; rep 2023, ord 23-33, sec 4.)

Section 4-2-9. Repealed.

(1983 CC, c 4, art 2, sec 4-10; am 1992, ord 92-93, sec 2; am 2011, ord 11-103, sec 5; rep 2023, ord 23-33, sec 4.)

Section 4-2-10. Repealed.

(1983 CC, c 4, art 2, sec 4-11; am 1992, ord 92-93, sec 2; rep 2023, ord 23-33, sec 4.)

Article 3. Dogs, Cats, and Other Animals.

* **Editor's Note:** A new article 3, "Dogs, Cats, and Other Animals," was created and sections 4-14 to 4-19 placed within this article by Ordinance 22-36.

Section 4-3-1. Impoundment of animals.

- (a) If any animal, except dogs and cats, trespasses, roams, strays or grazes upon any public lands, private lands of another, or upon any public highway in the County, any police officer or officer may seize and impound such animal for such period of time as may be deemed necessary; provided that reasonable attempts have first been made to notify the owner or keeper of the animal to remove the animal.
- (b) If reasonable attempts to notify the owner or keeper of the animal are unsuccessful, if the owner or keeper is unknown, or the owner or keeper refuses or fails to remove the animal after notice, the animal may be seized and impounded by the police or any officer. The owner or keeper of the animal shall pay not less than \$5 for each animal that is seized and impounded plus all additional costs incurred in the removal and transportation of the animal, and all costs for the feeding and care of each animal, including, but not limited to bona fide veterinary expenses. If any damage is done by the animals, the owner thereof shall pay to the proper claimant the full amount of damage or loss occasioned by the straying of the animals.
- (c) In case the charges and fees are not paid, or after forty-eight hours, in cases where the owners are unknown, the animals may be sold at public auction, or disposed of by the chief of police or the chief's authorized representative.

(1983 CC, c 4, art 4, sec 4-14; am 2022, ord 22-36, sec 5.)

Section 4-3-2. Failure to remove animal; penalty.

In addition to the charges or damages in section 4-3-1, the owner of any animal which trespasses, roams, strays, or grazes upon any public or private lands, or upon a public highway in the County, if upon notice, fails to remove the animals within twenty-four hours thereof, shall be guilty of a violation of this section and upon conviction thereof shall be fined not more than \$100.

(1983 CC, c 4, art 4, sec 4-15; am 2022, ord 22-36, sec 5.)

Section 4-3-3. Duty upon striking animals, including dogs and cats.

The driver of any vehicle which collides with or is involved in an accident with any animal, including dogs and cats, shall:

- (1) Stop, move the animal off the road, if possible, and render aid where necessary, and immediately; and
- (2) Have the animal's owner located, or
- (3) Notify the police department or animal control and protection agency.

There shall be a penalty of not more than \$50 for each violation of paragraph (2) or (3) of this section.

(1983 CC, c 4, art 4, sec 4-16; am 1986, ord 86-34, sec 1; am 2022, ord 22-36, sec 5; am 2023, ord 23-33, sec 5.)

Section 4-3-4. Cruelty to animals, including dogs and cats.

A person commits the offense of cruelty to animals, dogs and cats if the person knowingly or recklessly:

- (1) Gives away an animal, dog or cat, or animals, dogs or cats, as a prize or prizes;
- (2) Abandons any animal, dog or cat.

There shall be a penalty of not more than \$500 for each violation of this section. (1983 CC, c 4, art 4, sec 4-17; am 1986, ord 86-34, sec 2; am 2022, ord 22-36, sec 5.)

Section 4-3-5. Places prohibited to animals, including dogs and cats.

- (a) Except as otherwise provided, it shall be unlawful for any person to take or permit any dog, cat, or other domestic animal, whether loose or on a leash or in restraint on or about any County beach park or any establishment or place of business where food or food products are sold or displayed, including but not limited to restaurants, grocery stores, meat markets, fruit or vegetable stores.
- (b) This section shall not apply to “Seeing Eye” dogs or other dogs necessarily utilized for the benefit of handicapped persons or to dogs used for purposes of law enforcement by law enforcement agencies of the Federal, State or County governments.
- (c) There shall be a penalty of not more than \$50 for each violation of this section. (1983 CC, c 4, art 4, sec 4-18; am 1986, ord 86-34, sec 3; am 2022, ord 22-36, sec 5.)

Section 4-3-6. Defecation and nuisance prohibited.

- (a) No person who owns, harbors, keeps or has charge or control of any dog or other small domesticated animal shall cause, suffer, or allow such animal to soil, defile, defecate on, or commit any nuisance on any part of any street, including any sidewalk, passageway or bypath, or on any play area, park, or place where people congregate or walk, or on any public property, or on any private property, without the permission of the owner of the property.
- (b) The restrictions in this section shall not apply to that portion of the roadway of any street which lies between and within three feet of the edges or curbs of the roadway, except at crosswalks or bus stops, provided that the person who owns, harbors, keeps or has charge or control of a domesticated animal shall immediately and securely enclose all feces deposited by the animal in a bag, wrapper, or other container, and dispose of the same all in a sanitary manner.
- (c) There shall be a penalty of not more than \$50 for violations of this section. (1983 CC, c 4, art 4, sec 4-19; am 1986, ord 86-34, sec 4; am 2022, ord 22-36, sec 5.)

Article 4. Dogs.

* **Editor’s Note:** A new article 4, “Dogs” was created and divided into: division 1, “Dog License Fees;” division 2, “General Provisions;” and division 3, “Dangerous Dogs,” by Ordinance 22-36. Further, sections 4-12 to 4-13 were placed within division 1; sections 4-20 to 4-27, and 4-29 to 4-30 were placed within division 2; and sections 4-28, and 4-31 to 4-31.3 were placed within division 3.

Division 1. Dog License Fees.

Section 4-4-1. Fees.

(a) The following fees are hereby established as biennial license fees for the privilege of owning, harboring or keeping of dogs in the County:

- (1) Sterilized dogs \$2.00
- (2) Unsterilized dogs..... \$6.00

(b) For purpose of this section a sterilized dog means a spayed female dog and a neutered male dog.

(1983 CC, c 4, art 3, sec 4-12; am 2022, ord 22-36, sec 6.)

Section 4-4-2. Proof of sterilization.

Any person seeking to have the person’s dog licensed at the sterilized dog rate must present a certificate from a veterinarian licensed to practice within the State showing the description, age, and breed of the dog and certifying its sterilization.

(1983 CC, c 4, art 3, sec 4-13; am 2022, ord 22-36, sec 6.)

Division 2. General Provisions.

Section 4-4-21. Seizure of dogs by officers.

(a) Seizure of unlicensed dogs.

- (1) Every officer shall seize any unlicensed dog found running at large or found upon any public highway, street, alley, court, place, square, or grounds, or upon any unfenced lot, or not within a sufficient enclosure, and confine it in a pound or any suitable enclosure for a minimum period of forty-eight hours, during which time it shall be subject to redemption by its owner by payment of the license due, if any, and an impoundment fee of \$10. Every dog found without a registration tag affixed to the dog’s collar will be deemed to be unlicensed.
- (2) If not so redeemed, the dog shall be sold by the officer for the amount of the license and impoundment fee, or as much more as can be obtained therefor, and if not so sold, it shall be humanely destroyed.
- (3) The owner of any unlicensed dog impounded and not claimed within forty-eight hours as provided in this section, may redeem the dog at any time before sale or destruction by paying to the animal control and protection agency, in addition to the amount of the license and impoundment fee, the sum of \$5 per day for the number of days over two days the dog was impounded.
- (4) Of the moneys so received, the amount of the impoundment fee or kennel fees, if any, shall be paid to the director of finance.

- (b) Seizure of licensed stray dogs.
- (1) Every officer shall seize and impound any licensed stray dog.
 - (2) The officer shall notify the person to whom the license was issued, at the address given in the license certificate, and shall, upon demand made within forty-eight hours thereafter, release the dog to the person upon payment of an impoundment fee of \$10.
 - (3) If no person lawfully entitled to the dog shall, within seven days after the date of giving notice, claim the dog, the dog may be sold or destroyed by the animal control and protection agency.
 - (4) The owner of any licensed dog impounded and not claimed within forty-eight hours may redeem the dog at any time before the sale or destruction of the dog by paying to the animal control and protection agency, in addition to the \$10 impoundment fee, the sum of \$5 per day for the number of days over two days the dog was impounded.
 - (5) All impoundment and kennel fees collected by the animal control and protection agency in any given month shall be deposited by the animal control and protection agency no later than the fifth day of the following month with the finance director to the credit of the County of Hawai'i general fund account.

(1983 CC, c 4, art 4, sec 4-20; am 1995, ord 95-32, sec 2; am 2022, ord 22-36, sec 6; am 2023, ord 23-33, sec 6.)

Section 4-4-22. Seizure of stray dogs by persons other than officers.

- (a) Every person other than an officer as defined hereinabove who takes into possession any stray dog shall within forty-eight hours notify the animal control and protection agency and release the dog to the animal control and protection agency to be impounded and disposed of according to section 4-4-21.
- (b) There shall be a penalty of \$10 for each violation of this section.

(1983 CC, c 4, art 4, sec 4-21; am 2022, ord 22-36, sec 6; am 2023, ord 23-33, sec 7.)

Section 4-4-23. Redemption of seized dogs after sale.

The owner of any dog which has been seized and sold as provided in this chapter may, at any time within thirty days after the sale, redeem the same from the purchaser by paying to the purchaser the amount of the purchase price paid by the purchaser and the sum of \$1 per day for the number of days from the date of sale to and including the date of redemption, plus bona fide veterinary expenses.

(1983 CC, c 4, art 4, sec 4-22; am 2022, ord 22-36, sec 6.)

Section 4-4-24. Female dogs.

- (a) Any female dog in season is not permitted to run at large or be off the premises of the owner or keeper during this period except when being exercised on a leash by a responsible adult.

- (b) At all other times, when any dog is in season such dog shall be confined within a building or enclosure in such manner that she will not come in contact (except for intentional breeding purposes) with a male dog.
- (c) A penalty of \$10 shall be imposed upon the owner or keeper of a dog for each violation of this section.

(1983 CC, c 4, art 4, sec 4-23; am 2022, ord 22-36, sec 6.)

Section 4-4-25. Noisy dogs.

- (a) No person shall keep any dog which barks, bays, cries, howls or makes any other noise continuously or incessantly for a period of ten minutes or barks, bays, cries, howls or makes any other noise intermittently for a period of twenty minutes within a thirty-minute period of time to the disturbance of any person at any time of day or night and regardless of whether the dog is physically situated in or upon private property.
- (b) A dog shall not be deemed a noisy dog for purposes of this section if, at the time the dog is barking or making any other noise, a person is trespassing or threatening to trespass upon private property in or upon which the dog is situated or for any other legitimate cause which teased or provoked the dog. Such action is declared to be a public nuisance and detrimental to the public health and welfare.

(1983 CC, c 4, art 4, sec 4-24; am 1992, ord 92-109, sec 1; am 2022, ord 22-36, sec 6.)

Section 4-4-26. Noisy dog; reasonable attempts to reduce noise; penalties.

- (a) Any person disturbed by a noisy dog shall make a reasonable attempt to advise the owner or custodian who keeps such dog of this fact. Reasonable attempts for notification include by letter, email, visit to the owner or custodian, or any other legal method. If the person disturbed by a noisy dog is unable to notify the owner or custodian of the noisy dog, or after notifying the owner or custodian, the nuisance is not abated, the person disturbed by the noisy dog may then notify the appropriate enforcement agency.
- (b) The owner or custodian of a noisy dog that causes a disturbance as provided in section 4-4-25 shall be guilty of a violation of this section:
 - (1) If after being advised of the disturbance per subsection (a), the owner or custodian of a noisy dog does not take immediate and effective action to abate the nuisance; or
 - (2) If the appropriate enforcement agency is notified and responds to a complaint of a noisy dog and the nuisance is not abated.
- (c) There shall be a penalty of \$50 for the first violation of this section. The second violation has a penalty of \$100, the third \$200, and any subsequent violation \$400.

(1983 CC, c 4, art 4, sec 4-25; am 1992, ord 92-109, sec 1; am 1996, ord 96-105, sec 1; am 2011, ord 11-48, sec 1; am 2022, ord 22-36, sec 6; am 2024, ord 24-46, sec 1.)

Section 4-4-27. Harboring, holding for reward, or licensing of strayed or stolen dogs.

- (a) Except as otherwise provided, no person shall harbor or hold for reward or procure a license for a dog which has strayed from the dog's premises or which has been picked up on a public street, highway or other public place unaccompanied by its owner or other person or which has been stolen from its owner.
- (b) There shall be a penalty of \$10 for each violation of this section.
(1983 CC, c 4, art 4, sec 4-26; am 2022, ord 22-36, sec 6.)

Section 4-4-28. Injuring or poisoning dogs.

- (a) Unless otherwise provided by law, no person shall wilfully or negligently injure or poison any dog.
- (b) There shall be a penalty of \$10 for each violation of this section.
(1983 CC, c 4, art 4, sec 4-27; am 2022, ord 22-36, sec 6.)

Section 4-4-29. Leash required for public places.

No person shall bring or permit any dog in any County park, public school ground, or airport unless it is held under control by a suitable leash, not more than six feet long; provided, however, that dogs even under control by a suitable leash shall not be allowed in any County beach park. These restrictions shall not apply to dogs utilized by police for patrol or other police purposes.

(1983 CC, c 4, art 4, sec 4-29; am 1986, ord 86-34, sec 5; am 2022, ord 22-36, sec 6.)

Section 4-4-30. Penalty for permitting a dog to stray.

In addition to other penalties listed in this chapter, the owner of any dog which strays upon any public lands or the private lands of another shall be fined as follows:

- (1) For a first offense, or any offense not preceded within a five-year period by a conviction under this section: \$25.
- (2) For any offense which occurs within a five-year period of a prior conviction under this section: \$50.
- (3) For any offense which occurs within five years of two prior convictions under this section: \$75.
- (4) For any offense which occurs within five years of three or more prior convictions under this section; any one or more of the following:
 - (A) A fine of up to \$500.
 - (B) Up to one hundred hours of community service.

(1983 CC, c 4, art 4, sec 4-30; am 1995, ord 95-32, sec 3; am 2022, ord 22-36, sec 6.)

Division 3. Dangerous Dogs.**Section 4-4-31. Dangerous dogs may be slain.**

- (a) If any dangerous, fierce, or vicious dog shall be found running at large and cannot be taken up or tranquilized and impounded, such dog may be slain by any animal control officer.
- (b) Notwithstanding any provision to the contrary which may be found elsewhere in this chapter, where livestock have been killed, maimed or injured by any dangerous, fierce or vicious stray dog, the owner of such livestock or the owner's agent, may take any action necessary to protect the owner's livestock from such dangerous, fierce, or vicious dog, including, without limitation, slaying or otherwise disposing of the same.

(1983 CC, c 4, art 4, sec 4-28; am 2022, ord 22-36, sec 6; am 2024, ord 24-26, sec 5.)

Section 4-4-32. Negligent failure to control a dangerous dog; penalties.

- (a) A dog owner commits the offense of negligent failure to control a dangerous dog, if the person negligently fails to take reasonable measures to prevent the dog from attacking, without provocation, a person or animal and such attack results in:
- (1) The maiming or causing of serious injury to or the destruction of an animal;
 - (2) Bodily injury to a person;
 - (3) Substantial bodily injury to a person; or
 - (4) Serious bodily injury or death.
- (b) For the purposes of this section, “reasonable measures to prevent the dog from attacking” shall include but not be limited to:
- (1) Measures required to be taken under sections 4-3-1, 4-3-2, 4-3-5, 4-4-21, 4-4-24, 4-4-30 and 4-9-1 of this chapter to prevent the dog from becoming a stray; and
 - (2) Any conditions imposed by the court for the training of the dog or owner or for the supervision, confinement or restraint of the dog for a previous conviction under this section.
- (c) A person convicted under this section of a violation of subsections (a)(1) or (a)(2) shall be guilty of a petty misdemeanor and sentenced to one or more of the following:
- (1) A fine of not less than \$200 nor more than \$1,000;
 - (2) A period of imprisonment of up to thirty days or, in lieu of imprisonment, a period of probation of not more than six months in accordance with the procedures, terms and conditions provided in chapter 706, part II, Hawaii Revised Statutes; or
 - (3) Restitution to any individual who has suffered bodily injury or property damage as a result of an attack by the dog.
- (d) A person convicted under this section of a violation of subsection (a)(3) shall be guilty of a class C felony and sentenced to one or more of the following:
- (1) A fine of not less than \$500 nor more than \$10,000;
 - (2) A period of imprisonment of up to five years or, in lieu of imprisonment, a period of probation of four years with up to one year of imprisonment, in accordance with the procedures, terms and conditions provided in chapter 706, part II, Hawaii Revised Statutes;
 - (3) Restitution to any individual who has suffered bodily injury or property damage as a result of an attack by the dog; or
 - (4) The dog shall be humanely destroyed.
- (e) A person convicted under this section of a violation of subsection (a)(4) shall be guilty of a class B felony and sentenced to one or more of the following:
- (1) A fine of not less than \$500 nor more than \$25,000;
 - (2) A period of imprisonment of up to ten years or, a period of probation of four years with up to eighteen months of imprisonment, in accordance with the procedures, terms and conditions provided in chapter 706, part II, Hawaii Revised Statutes;

- (3) Restitution to any individual who has suffered bodily injury or property damage as a result of an attack by the dog; or
- (4) The dog shall be humanely destroyed.

(2002, ord 02-138, sec 3; am 2022, ord 22-36, secs 6 and 7.)

Section 4-4-33. Habitual negligent failure to control a dangerous dog; penalties.

- (a) A dog owner commits the offense of habitual negligent failure to control a dangerous dog, if the person was convicted of a violation of section 4-4-32 within five years prior to the present incident, the prior violation involved the same dog, and the dog owner negligently failed to take reasonable measures to prevent the dog from attacking, without provocation, a person or animal and such attack results in:
 - (1) The maiming or causing of serious injury to or the destruction of an animal; or
 - (2) Bodily injury to a person.
- (b) A person convicted under this subsection shall be guilty of a misdemeanor and sentenced to one or both of the following procedures, terms and conditions provided in chapter 706, part II, Hawai'i Revised Statutes:
 - (1) A fine of not less than \$200 nor more than \$2,000;
 - (2) A period of imprisonment of up to one year, or in lieu of imprisonment, a period of probation of not more than one year in accordance with the procedures, terms and conditions provided in chapter 706, part II, Hawai'i Revised Statutes;
 - (3) Restitution to any individual who has suffered bodily injury or property damage as a result of an attack by the dog; or
 - (4) The dog shall be humanely destroyed.

(2022, ord 22-36, sec 10; am 2022, ord 22-36, sec 10.)

Section 4-4-34. Citation and summons; seizure; relinquishment of ownership.

- (a) Upon finding probable cause to believe that there has been a violation of sections 4-4-32 or 4-4-33, a police officer may arrest or issue a summons and citation to the dog's owner, or both. In addition to arresting or issuing a summons and citation to the owner, a police officer shall have the dog seized and impounded by animal control officers until: (1) the Court orders that the dog be humanely destroyed or returned to the owner, or; (2) a criminal case arising out of the violation of section 4-4-32 or 4-4-33 is dismissed, whichever comes first. Such impoundment may be at the premises of a licensed veterinarian, a County animal control facility, or at a commercial kennel. Medical and impound expenses incurred by the County relating to the care and custody of the dog may be collected from the owner, with waiver of expenses permitted based upon criteria outlined in the animal control and protection agency's administrative rules.
- (b) If a dog is seized and impounded pursuant to this section, the citation shall notify the owner that if the owner does not appear at the time and place stated in the summons, the dog shall be subject to relinquishment pursuant to subsection (d).

- (c) Any person who refuses to surrender a dog that is subject to relinquishment pursuant to this section shall be guilty of a petty misdemeanor and fined not less than \$200 nor more than \$2,000, imprisoned not more than thirty days, or both.
- (d) In the event that the owner of a dog seized and impounded pursuant to this section fails to appear in court as required, ownership of the dog shall be deemed relinquished and the court may order disposition of the dog as it deems appropriate.
- (e) Notwithstanding any relinquishment of ownership of the dog pursuant to subsection (d) or voluntary relinquishment of ownership of the dog, the owner shall still be responsible for all expenses of boarding the dog and any penalties which may be imposed by the court.

(2002, ord 02-138, sec 3; am 2022, ord 22-36, secs 6 and 9; am 2024, ord 24-26, sec 6.)

Section 4-4-35. Additional penalties.

- (a) Unless the dog has been or is ordered to be humanely destroyed, the dog owner shall also be sentenced to the following provisions, in addition to the provisions of sections 4-4-32 and 4-4-33:
 - (1) The owner shall provide the owner's name, address, and telephone number to the County animal control and protection agency;
 - (2) The owner shall provide the location at which the dog is currently kept, if such location is not the owner's address;
 - (3) The owner shall promptly notify the animal control and protection agency of:
 - (A) Any changes in the ownership of the dog or the location of the dog along with the names, addresses, and telephone numbers of new owners or the new address at which the dog is located;
 - (B) Any further instances of an attack by the dog upon a person or an animal;
 - (C) Any claims made or lawsuits brought as a result of further instances of an attack by the dog; or
 - (D) The death of the dog.
 - (4) The owner shall obtain a license for the dog pursuant to section 143-2, Hawaii Revised Statutes, if the dog is not currently licensed; and
 - (5) Unless already identified by microchip, the dog shall be permanently identified, at the owner's expense, by injecting into the dog an identification microchip using standard veterinary procedures and practices. The microchip identification number of the dog shall be provided to the County animal control and protection agency.
- (b) Unless the dog has been or is ordered to be humanely destroyed, in addition to the provisions of subsection (a), the dog owner may also be sentenced to any of the following terms or conditions:
 - (1) When indoors, the dog be under the control of a person eighteen years of age or older;
 - (2) When outdoors and unattended, the dog be kept within a locked fenced or walled area from which it cannot escape;
 - (3) When outdoors and unattended, the dog be confined to an escape-proof kennel;

- (4) When outdoors, the dog be attended and kept within a fenced or walled area from which it cannot escape;
 - (5) When outdoors, the dog be attended and kept on a leash no longer than six feet in length and under the control of a person eighteen years of age or older;
 - (6) When outdoors, the dog be attended and muzzled with a muzzle that prevents the dog from biting any person or animal but does not cause injury to the dog or interfere with its vision or respiration;
 - (7) A sign or signs be placed in a location or locations directed by the court advising the public of the presence and dangerousness of the dog;
 - (8) The owner and dog, at the owner's expense, attend training sessions conducted by an animal behaviorist, a licensed veterinarian, or other recognized expert in the field;
 - (9) The dog be neutered or spayed at the owner's expense, unless the neutering or spaying of the dog is medically contraindicated;
 - (10) The owner procure liability insurance or post bond of not less than \$50,000, or for a higher amount if the court finds a higher amount appropriate to cover the medical and/or veterinary costs resulting from potential future actions of the dog;
 - (11) The dog be humanely destroyed; or
 - (12) Any other condition the court deems necessary to restrain or control the dog.
- (c) For the purposes of this section, an "escape-proof kennel" means a kennel which allows the dog to stand normally and without restriction, which is at least two and one-half times the length of the dog, and which protects the dog from the elements. Fencing or wall materials required under this section shall not have openings with a diameter of more than two inches, and in the case of wooden fences, the gaps therein shall not be more than two inches. Any gates within such kennel or structure shall be lockable and of such design as to prevent the entry of children or the escape of the dog, and when the dog is confined to such kennel or area and unattended, such locks shall be kept locked. The kennel may be required to have double exterior walls to prevent the insertion of fingers, hands, or other objects.
- (d) Upon probable cause, a police officer may either arrest or issue a summons and citation to the owner for violation of subsection (a).
- (2022, ord 22-36, sec 13; am 2024, ord 24-26, secs 7 and 8.)

Section 4-4-36. Civil action not precluded.

Nothing contained in this article shall preclude any person injured by a dog from bringing a civil action against the owner of such dog pursuant to the applicable provisions of state law.

(2002, ord 02-138, sec 3; am 2022, ord 22-36, secs 6 and 12.)

Section 4-4-37. Exemption.

The provisions of this article shall not apply to dogs owned by any law enforcement agency and used in the performance of law enforcement work.

(2002, ord 02-138, sec 3; am 2022, ord 22-36, secs 6 and 8.)

Article 5. Management of Apiaries and Beekeeping.**Section 4-5-1. Findings and purpose.**

The council recognizes the critical role bees play in agriculture, pollinating food crops and furnishing useful agricultural products, such as honey, wax, and queen bees. The purpose of this article is to safeguard and promote this agricultural activity by identifying generally accepted apiary management practices for beekeeping. Adherence to these practices will promote healthy apiaries, prevent undesirable bee behavior, mitigate infestations of apiary pests, and deter hive abandonment. Further, through this article, it is the council's intention to establish that chapter 165, Hawaii Revised Statutes, the Hawaii right to farm act, applies to apiaries and individuals involved in the production of apiary products, where applicable.
(2024, ord 24-65, sec 3.)

Section 4-5-2. Scope.

This article establishes generally accepted apiary management practices for beekeeping within zoning districts in the County that permit apiaries. Nothing in this article is intended to conflict with any State or Federal law.
(2024, ord 24-65, sec 3.)

Section 4-5-3. Definitions.

As used in this article, unless it is apparent from the context that a different meaning is intended:

“Africanized honeybee” means all life stages of the animal subspecies *Apis mellifera scutellata* or *Apis mellifera adanosii*.

“Apiary” means a site where one or more colonies of bees and beehives are kept and maintained.

“Bee” or “honeybee” means all life stages of the common domesticated honeybee European subspecies *Apis Mellifera*. This definition does not include wasps, hornets, African subspecies, or Africanized hybrids.

“Beekeeper” means a person who intentionally owns, operates, maintains, possesses or otherwise is in charge of an apiary.

“Colony” means an aggregate of bees consisting principally of workers, but having, when perfect, one queen and at times drones, brood, combs, and honey.

“Disease” means any condition adversely affecting bees or their brood, which may become epidemic, including without limitation, bacteria, viruses or invertebrate pests.

“Flyover barrier” means a solid wall, fence, or dense vegetation, or combination thereof, that encourages honeybees to fly over rather than through the barrier.

“Hive” means a container or receptacle housing a bee colony and includes moveable frame structures to facilitate the colony's development.
(2024, ord 24-65, sec 3.)

Section 4-5-4. Generally accepted apiary management practices.

- (a) Beekeepers shall, to the best of their ability, maintain a healthy colony of bees by adhering to generally accepted apiary management practices as set forth in this section.
- (b) These generally accepted apiary management practices encompass, but are not limited to, the following:
 - (1) Beekeepers regularly inspect their apiary and implement suitable measures to prevent and mitigate potential nuisance activities, ensuring both the health and well-being of the apiary and public health and safety;
 - (2) Maintain colonies in hives with removable frames, that are kept in sound and usable condition;
 - (3) Maintain an adequate and accessible supply of fresh water on-site, including landing sites for the honeybees to drink from;
 - (4) Protect hives from bright lights at night;
 - (5) Proactively manage colonies to prevent swarming;
 - (6) Ensure effective sanitation practices to prevent disease and robbing, mitigate pests such as small hive beetles, wax moths, and varroa mites, and bolster overall hive health;
 - (7) Thoroughly clean reused hives and beekeeping equipment to remove hive products such as old comb and honey, and properly store hives to prevent robbing or pest invasion;
 - (8) Support year-round bee activity by planting non-invasive seasonal flowers and species suitable to the regional climate;
 - (9) Practice fire safety when using a bee smoker, and ensure the smoker is completely extinguished following use;
 - (10) Requeen hives and colonies if aggressive behavior is observed;
 - (11) Be considerate of neighbors by placing hive boxes as far away as feasible from neighboring properties with dwelling units; and
 - (12) Respond to concerns, complaints, and other issues from neighbors in a manner that seeks to find mutually agreeable resolutions and avoid further potential conflict.
- (c) Novice beekeepers should consult with the department of research and development, State department of agriculture, and other entities possessing expertise and experience in apiary management to establish and sustain safe, healthy, and productive hive operations.

(2024, ord 24-65, sec 3.)

Section 4-5-5. Nuisance.

- (a) Nuisance complaints, such as aggressive bee behavior or other activity that disrupts or impedes public health and safety, shall be filed with the vector control division of the State department of health.
- (b) Detection of Africanized honeybees shall be reported to the State department of agriculture.

(2024, ord 24-65, sec 3.)

Article 6. Reserved.**Article 7. Reserved.****Article 8. Reserved.****Article 9. Enforcement.**

* **Editor's Note:** A new article 9, "Enforcement," was created and sections 4-32 to 4-36 placed within this article by Ordinance 22-36.

Section 4-9-1. Enforcement.

For any violation of any of the provisions of articles 3 or 4, or of the provisions of chapter 143, Hawaii Revised Statutes, it shall be the duty of any officer authorized to seize and impound any dog running at large within the meaning of this article to issue a summons to the owner or other person charged with the responsibility of complying with the provisions of articles 3 or 4, or with the provisions of chapter 143, Hawaii Revised Statutes. Said summons shall instruct such owner or person to report at the violations bureau of the respective district courts of the third circuit. Each such owner or person may, within seven days after the receipt of such summons, appear at such violations bureau and post a bail bond, in such amounts as may be set by the administrative judge of the district courts, for appearance on the date as may be set for such person to appear before the district court. Upon failure to appear upon such date, said bail bond shall be deemed forfeited.

(1986, ord 86-34, sec 6; am 2022, ord 22-36, secs 16 and 17.)

Section 4-9-2. Training; appointment; powers of animal control officer.

- (a) Pursuant to section 143-2.5, section 143-7, and section 46-1.5(15), Hawaii Revised Statutes, an animal control officer shall be authorized to issue a complaint and summons or other form of citation as the animal control and protection administrator may deem to be appropriate to enable an animal control officer to carry out and to perform the duties of an animal control officer under this chapter.
- (b) The animal control and protection administrator shall verify that a person to serve as an animal control officer is qualified and trained to serve in that capacity. The animal control and protection administrator shall be empowered to establish minimum requirements for qualification and training, which may be revised from time to time, provided that a copy thereof, and of any revisions, shall be kept on file with the animal control and protection agency's office thereof at all times. All County agencies, officers and employees shall render their cooperation and assistance to the animal control and protection administrator for purposes of this subsection (b).

- (c) Upon verification of an animal control officer's qualification and training, the animal control and protection administrator or the administrator's designee shall issue an oath of office and identification badge or insignia to the animal control officer. (1992, ord 92-93, sec 3; am 2003, ord 03-116, sec 1; am 2022, ord 22-36, sec 16; am 2023, ord 23-33, sec 8.)

Section 4-9-3. Summons.

There shall be provided for use by officers authorized to enforce laws relating to the regulation and control of dogs, a form of summons for use in citing violators of the provisions of chapter 143, Hawai'i Revised Statutes. Said summons shall be printed in a form commensurate with the form of other summonses used in modern methods of arrest, so designed to include all necessary information to make the same valid and legal within the laws and regulations of the State of Hawai'i and the County of Hawai'i. The form and content of such summons shall be as adopted or prescribed by the administrative judge of the district courts.

In every case when a summons is issued, the original of the same shall be given to the violator; provided that the administrative judge of the district courts may prescribe the giving to the violator a carbon copy of the summons, and provide for the disposition of the original and any other copies.

Every summons shall be consecutively numbered and each carbon copy shall bear the number of its respective original.
(1986, ord 86-34, sec 6; am 2022, ord 22-36, sec 16.)

Section 4-9-4. Failure to obey summons.

It shall be unlawful for any person to fail to appear at the place and within the time specified in the summons issued to the person by an officer for any violation of any section of this article, regardless of the disposition of the charge for which the person was originally cited.

(1986, ord 86-34, sec 6; am 2022, ord 22-36, sec 16.)

Section 4-9-5. Issuance of complaint; when.

In the event any person fails to comply with a summons given to such person or if any person fails or refuses to deposit bail as required and within the time permitted, the violations bureau shall forthwith have a complaint entered against such person and secure the issuance of a warrant for the person's arrest.

(1986, ord 86-34, sec 6; am 2022, ord 22-36, sec 16.)

Section 4-9-6. Disposition of fines and forfeitures.

All fines and forfeitures collected upon conviction or upon the forfeiture of bail of any person charged with a violation of any section or provision of this article shall be paid to the County of Hawai'i and deposited in the general fund of the County of Hawai'i.

(1986, ord 86-34, sec 6; am 2022, ord 22-36, sec 16.)

* **Editor's Note:** Sections 4-31.4, "Severability;" 4-37, "Reference to Hawai'i state law;" and 4-38, "Severability" were replaced by Ordinance 22-36.